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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOCHEN KILIAN and OTMAR RENGERT¹

Appeal 2016-001375
Application 13/792,473
Technology Center 2600

Before DEBRA K. STEPHENS, MICHAEL M. BARRY, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

CUTITTA, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–18, all pending claims of the application. We have jurisdiction over this appeal under 35 U.S.C. § 6(b).

We AFFIRM.

¹ According to Appellants, the real party in interest is DSP Group Ltd. *See* Appeal Br. 3.

STATEMENT OF THE CASE

According to Appellants, the application relates to a technique to register new devices into a Digital Enhanced Cordless Telecommunications (“DECT”) Ultra Low Energy (“ULE”) Home Automation network. Appellants indicate the technique is effective when new DECT devices to be registered lack keyboards to type in a pin or personal security code. Spec. 1.² Claims 1, 13, and 16 are independent. Claim 1 is representative and is reproduced below with disputed limitations italicized:

CLAIMED SUBJECT MATTER

1. A system, comprising:
 - a trusted Digital Enhanced Cordless Telecommunications (DECT) device; and
 - a DECT base station;
 - wherein the trusted DECT device is arranged to send, to the DECT base station, registration allowable DECT device credentials;
 - wherein the DECT base station is arranged to:
 - receive from a requesting DECT device that differs from the trusted DECT device a request for registration of the requesting DECT device to the DECT base station; wherein the request comprises requesting DECT device credentials;*
 - register the requesting DECT device to the DECT base station if the requesting DECT device credentials match the registration allowable DECT device credentials; and*

² Throughout this Opinion, we refer to: (1) Appellants’ Specification filed Mar. 11, 2013 (“Spec.”); (2) the Final Office Action (“Final Act.”) mailed Nov. 6, 2014; (3) the Appeal Brief (“Appeal Br.”) filed Apr. 5, 2015; (4) the Examiner’s Answer (Ans. ”) mailed Sept. 8, 2015; and (5) the Reply Brief (“Reply Br.”) filed Nov. 5, 2015.

prevent a registration of the requesting DECT device to the DECT base station if the requesting DECT device credentials differ from the registration allowable DECT device credentials.

Appeal Br. 19 (Claims App'x) (emphasis added).

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims:

Morvan et al. ("Morvan")	US 6,826,401 B1	Nov. 30, 2004
Luebke et al. ("Luebke")	US 2005/0086366 A1	Apr. 21, 2005

REJECTION

Claims 1–18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Luebke and Morvan. Final Act. 8–24.

Our review in this appeal is limited only to the above rejection and issues raised by Appellants. We have not considered other possible issues that have not been raised by Appellants and which are, therefore, not before us. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2014).

ISSUES

Appellants' arguments present the following issues:

1. Does the Examiner err in finding the combination of Luebke and Morvan teaches or suggests

receive from a requesting DECT device that differs from the trusted DECT device a request for registration of the requesting DECT device to the DECT base station; wherein the request comprises requesting DECT device credentials; [and]

register the requesting DECT device to the DECT base station if the requesting DECT device credentials match the registration allowable DECT device credentials,

as recited in claim 1?

2. Does the Examiner err in concluding it would have been obvious to combine the teachings and suggestions of Luebke and Morvan in the manner recited in claim 1, because Morvan teaches away from the claimed combination?

3. Does the Examiner err in finding the combination of Luebke and Morvan teaches or suggests “wherein the time window starts after a predetermined period after a locking of the requesting DECT device to the DECT base station,” as recited in claim 5?

ANALYSIS

We have reviewed the Examiner’s rejections in light of the Appellants’ arguments that the Examiner has erred. We disagree with Appellants’ conclusions and we adopt as our own: (1) the findings and reasons set forth by the Examiner in the Final Office Action from which this appeal is taken (Final Act. 2–24) and (2) the reasons set forth by the Examiner in the Examiner’s Answer in response to Appellants’ Appeal Brief (Ans. 2–9). We concur with the conclusions reached by the Examiner, and we highlight the following for emphasis and completeness.

Issue 1

The Examiner finds Luebke’s sensor 10 transmitting a DATA(profile_information) RF message 424 back to base RF processor 26 of base station 4 teaches or suggests receiving “requesting DECT device credentials,” as recited in independent claim 1. Final Act. 3 (citing Luebke Fig. 9A, ¶ 109).

Appellants argue “Luebke does not teach of a method that includes a base station that is arranged to *register the requesting DECT device to the DECT base station if the requesting DECT device credentials match the registration allowable DECT device credentials*” because Luebke does not teach receiving the “requesting DECT device credentials.” Appeal Br. 11. More specifically, Appellants argue in Luebke, “[b]oth [the] *attempt_network_discovery* message and ‘program sensor’ message do not include sensor credentials.” Appeal Br. 10 (citing Luebke ¶ 87).

In response, the Examiner clarifies his interpretation of “credentials” by noting that “[t]he credentials data described by the claims can be any type of data, such as type of signal, common frequencies or other info, that is recognizable by the base station in order for the base station to accept the sensor.” Ans. 3 (citing Luebke ¶ 87).

Appellants, thus, argue the Examiner’s interpretation of the term “credentials,” as recited in claim 1, is unreasonably broad. We find Appellants’ argument unpersuasive, however, because Appellants fail to establish the Examiner’s interpretation is *not* the broadest reasonable interpretation, consistent with Appellants’ Specification. *See In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). Under a broadest reasonable interpretation, the words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification. *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989); *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372 (Fed. Cir. 2004). The plain meaning of a term is the ordinary and customary meaning given to the term by those of ordinary skill in the art at the time of the invention. *In re Suitco Surface, Inc.*, 603 F.3d 1255, 1259–60 (Fed. Cir. 2010). The presumption

that a term is given its ordinary and customary meaning may be rebutted by Appellants clearly setting forth a different definition of the term in the specification. *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

Here, Appellants have not identified an explicit definition in the Specification, nor established the Examiner's interpretation of "credentials" is inconsistent with the Specification. *Zletz*, 893 F.2d at 321. Furthermore, Appellants have not proffered sufficient evidence or argument to persuade us of error in the Examiner's interpretation. Appeal Br. 12, 14–15. Accordingly, we find unpersuasive Appellants' argument that the Examiner's interpretation of "credentials" is unreasonably broad.

In view of the Examiner's interpretation, we agree with the Examiner's finding that Luebke's description of sensor 10 sending a DATA(profile_information) RF message 424 to the base RF processor 26 of base station 4 teaches or suggests receiving "requesting DECT device credentials," as recited in claim 1. Final Act. 3–4; Ans. 3 (citing Luebke ¶ 109). In addition, the Examiner finds, and we agree, "to be discovered or connected, the sensor had to send some type of credential data in order for the base station to sends [*sic*] the nwk_connect_confirm (422) message." Ans. 3–4 (citing Luebke ¶¶ 87, 109) (emphasis omitted). Accordingly, we find Appellants' arguments unpersuasive.

Appellants' further argue "[t]he [E]xaminer mixes between communicating and registering – the mere fact that a DECT device may communicate with a base station does not mean that the DECT device will be registered." Reply Br. 6. As an initial matter, we note Appellants have not identified an explicit definition in the Specification, nor established the

Examiner's interpretation of "register" is inconsistent with the Specification. *Zletz*, 893 F.2d at 321.

We disagree, therefore, with Appellants' contention that the Examiner confuses communicating and registering. The Examiner does not rely solely on communication between the base station and sensor. Rather, the Examiner's finds Luebke suggests registering the sensor because Luebke's base station 4 sends sensor 10 an Acknowledgment(SUCCESS) RF message 426 in response to receipt of sensor 10's DATA(profile_information) RF message 424, and that this acceptance and acknowledgement of the sensor's credentials suggests registration of the sensor to the base station. Final Act. 3; Ans. 3 (citing Luebke ¶¶ 87, 109, 112, and Fig. 9B) (emphasis omitted). Accordingly, we also find this argument unpersuasive.

Therefore, Appellants have not persuaded us the combination of Luebke and Morvan teaches or suggests

receive from a requesting DECT device that differs from the trusted DECT device a request for registration of the requesting DECT device to the DECT base station; wherein the request comprises requesting DECT device credentials; [and]

register the requesting DECT device to the DECT base station if the requesting DECT device credentials match the registration allowable DECT device credentials,

as recited in claim 1.

Issue 2

Appellants argue “while Luebke requires the user of a sensor to attach the key to the sensor for authentication – Morvan discusses the prior art disadvantages of user involvement in a authentication process emphasizes that his method eliminate the need for user interference – and thus teaches away from Luebke.” Appeal Br. 14.

Appellants have not persuaded us Morvan teaches away from the claimed system because Appellants have not identified where an ordinarily skilled artisan “upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.” *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994). The Examiner relies on Morvan simply for Morvan’s teaching that the base station is arranged to prevent a registration of the requesting DECT device to the DECT base station if the credentials differ. Final Act. 10. In contrast, Appellants’ argument requires all of the features of Morvan to be bodily incorporated into the structure of Luebke.

We find this argument unpersuasive because the “test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference. . . . Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.” *In re Keller*, 642 F.2d 413, 425 (CCPA 1981). *See also In re Sneed*, 710 F.2d 1544, 1550 (Fed. Cir. 1983) (“[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review”); and *In re Nievelt*, 482 F.2d 965, 968 (CCPA 1973) (“Combining the teachings of references does not involve an ability to combine their specific structures”). Rather, “if a

technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007).

Here, Appellants fail to persuade us the Examiner errs in finding “Morvan features can be used with Luebke art as registration failure indication and safety protection of the DECT network from other device intruders” because “[a] DECT device has to have proper credentials in order to be part of the network.” Final Act. 10 (emphasis omitted). Appellants provide no persuasive argument or evidence that combining the teachings of Morvan with the teachings of Luebke was “uniquely challenging or difficult for one of ordinary skill in the art.” *See Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 419); see also *KSR*, 550 at 421 (“A person of ordinary skill is also a person of ordinary creativity, not an automaton.”). Appellants further argue the Examiner’s rationale amounts to “blunt hindsight.” Reply Br. 7. We find this argument unpersuasive because the Examiner has articulated a reason having rational underpinnings for making the proposed combination of prior art teachings, as discussed above. Appellants fail to demonstrate the combination is based on impermissible hindsight rather than the Examiner’s articulated reason.

Accordingly, we sustain the Examiner’s 35 U.S.C. § 103(a) rejection of claim 1. We also sustain the Examiner’s § 103(a) rejection of independent claims 13 and 16, which are argued with independent claim 1, for similar reasons. Appeal Br. 7–8. Dependent claims 2–4, 6–12, 14, and

15, are not argued separately and fall with their respective independent claims. *Id.*

Issue 3

The Examiner relies on Morvan to teach or suggest “wherein the time window starts after a predetermined period after a locking of the requesting DECT device to the DECT base station,” as recited in dependent claim 5. Final Act. 6.

Appellants argue the Examiner errs in the rejection because “in contrary to the analysis of the Office- TSCAN can not be regarded as a predefined time period after locking – and the time window of Morvan does not start after a predetermined period after a locking.” Reply Br. 10.

We find Appellants’ argument unpersuasive because we concur with the Examiner’s finding that Morvan’s discussion of timers Tscan, Tlock, and Tattach teach or suggest the disputed features. Final Act. 12–13; Ans. 6–7 (citing, *inter alia*, Morvan 4: 65 – 5: 6, 5: 31–36, 7:8–15, 7:28–42, Fig. 4).

For this reason, we sustain the rejection of dependent claim 5. Although Appellants nominally argue claim 17 separately, the argument presented — “[d]uring the period counted by Tlock . . .” (Appeal Br. 17) — is essentially similar to the argument discussed above for claim 5. We are not persuaded the Examiner erred in rejecting claim 17 for the same reasons provided for claim 5. Dependent claim 18 is not argued separately and falls with claim 5. *See* Appeal Br. 15–18.

DECISION

We affirm the Examiner's decision rejecting claims 1–18 under 35 U.S.C. § 103(a).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED